

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 2, 4-13, 16 and 18-21 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejection in view of the amendments and remarks as set forth below.

Allowable Subject Matter

It is gratefully acknowledged that the Examiner considers the subject matter of claims 2-7, 9-11 and 15-16 as being allowable if rewritten in independent form. Although not conceding the appropriateness of the Examiner's rejections, claim 3 has been rewritten in independent form as new claim 19 and claim 15 has been included in independent claim 13. Accordingly, claims 2, 4-13, 15, 16, 18 and 19 are now in condition for allowance.

Specification

The Examiner objected to the specification as lacking section headings. By way of the present amendment, these headings have now been added to the specification.

The Examiner objected to the paragraph on page 4 which refers to claims 1 and 13. This paragraph has now been cancelled.

The Examiner objected to the Abstract as being in two paragraphs. By way of the present amendment, Applicants have rewritten the Abstract to be a single paragraph and have also shortened the Abstract and placed it in better form.

Priority

The Examiner pointed out that the certified copy of the German application has not been submitted. By way of the present amendment, Applicants are submitting the foreign Priority Document.

Drawings

The Examiner objected to the drawings as not showing the beam dividing polarizing prism of claims 8 and 18. Applicants disagree with the Examiner's objection. The beam splitter 16 is the beam dividing polarizing prism mentioned in claims 8 and 18. Applicants have now amended the specification to point out that in some cases the beam splitter is a beam dividing polarizing prism. Accordingly, Applicants submit that the drawings have now overcome this objection.

Claim Objections

The Examiner objected to claim 1 due to its format. By way of the present amendment, Applicants have cancelled claim 1 and rewritten this claim as new claims 19, 20 and 21. Each of these claims includes the first part of claim 1 and each of the claims includes one of the three possibilities connected by "and/or" in the latter part of claim 1. In rewriting these claims, the suggested format of the Examiner has been implemented. It should also be noted that claim 19 now also includes the limitations of claim 3 to make this claim allowable.

The Examiner objected to claim 1 as lacking antecedent basis for language in lines 8, 14 and 5-6. In rewriting claim 1 as new claims 19-21, Applicants have corrected this language to provide antecedent basis.

The Examiner objected to claim 4 as not stating what the synchronization is with respect to. Applicants have now amended this claim to state the basis of the synchronization. The Examiner objected to claim 6 as having insufficient antecedent basis. By way of the present amendment, Applicants have corrected this language as well. Similarly, claim 7 has been amended to provide antecedent basis.

The Examiner objected to claim 9 due to the language "sample perpendicular". By way of the present amendment, Applicants have changed this to read "line perpendicular to the sample". Applicants have also corrected this language in the specification.

The Examiner objected to claims 10 and 11 due to insufficient antecedent basis. Applicants have corrected these problems by way of the present amendment as well.

The Examiner objected to the format of claim 13. By way of the present amendment, Applicants have rewritten this claim as suggested by the Examiner and in a similar arrangement to claims 19-21. At the same time, Applicants have removed the final paragraph and the connector "and/or". At the same time, Applicants have added the limitations of claim 15 to claim 13 to make this claim allowable.

The Examiner objected to claim 17. This is now rendered to moot by the cancellation of this claim.

Rejection Under 35 U.S.C. § 112

The Examiner rejected claims 1-6, 8, 9, 13-16 and 18 under 35 U.S.C. § 112, second paragraph as being indefinite. This rejection is respectfully traversed.

The Examiner objected to the "and/or" terminology in various claims. Applicants have now removed this term throughout the claims.

The Examiner rejected claim 8 due to the "in case of" clause. Applicants have now replaced this with an indication of when the prism is utilized. Accordingly, Applicants submit this rejection is overcome.

Rejection Under 35 U.S.C. § 103

Claims 1, 12, 13 and 18 stand rejected under 35 U.S.C. § 103 as being obvious over Duncan et al. (U.S. Patent 5,501,697) in view of Wei et al. (U.S. Patent 6,608,689). Claims 13 and 14 stand rejected under 35 U.S.C. § 103 as being obvious over Duncan et al. in view of Wei et al. and further in view of Pickering et al. (U.S. Patent 6,362,881). Claim 17 stands rejected under 35 U.S.C. § 103 as being obvious over Duncan et al. in view of Wei et al. and further in view of Boguslavskiy et al. (WO 02/26435). These rejections are respectfully traversed.

First, claims 14 and 17 have been cancelled rendering this part of the rejections moot. Next, claim 1 has now been divided into claims 19-21, with claim 19 including the limitations of claim 3 which is not rejected over prior art. Similarly, claim 13 has been amended to include the limitations of claim 15 which has not been rejected over prior art. Accordingly, Applicants submit that all of these rejections are overcome.

In regard to claims 20 and 21, the Examiner has relied on Wei et al. to show the compensation of the wobble structure. However, this reference does not provide for the separate optical paths or the separation of the radiation signal by blanking which are provided in claims 20 and 21 in place of the wobbling compensation. Accordingly, Applicants submit that claims 20 and 21 are likewise allowable over this combination of references.

Applicants have also made other changes to the specification to correct errors that have been noted and also to change language of the specification which has also been changed in correcting the claims. No new matter has been entered by way of these changes.

CONCLUSION

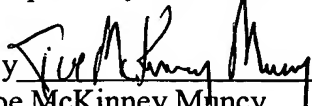
In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse, Reg. No. 27,295 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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